REMARKS

In item one of the office action, it was stated that the first sentence of the specification should be amended to cross reference all other reissue applications. This has been done.

In item two of the office action, it was stated that a statement regarding surrender should be made.

Applicants, by its undersigned attorney, states that it has surrendered the original U.S. Patent No. 5,656,186 upon which this reissue application is based, in the earlier reissue application No. 09/366,685.

In item number three of the office action, it was stated that a supplemental reissue oath or declaration must be received in order to obtain allowance. Applicants respectfully defer submission of the supplemental reissue oath/declaration, and same will be submitted at a later date.

DOUBLE PATENTING

Claims 46-49,50, 51, 51 (sic) , 55, 56-67, 69-78, 80 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-51 of U.S. RE37,585E. Although applicants do not necessarily agree, in order to expedite prosecution of the present application, enclosed is a terminal disclaimer in compliance with 37 CFR 1.321(c).

Based on the above, applicants request this rejection be reconsidered and withdrawn.

REJECTION UNDER 35 U.S.C. § 112

Claims 46, 47, 50, 53, 54, 55, 56, 61, 63, 67, 68, 69, 78, 79 and 80 are rejected under 35 U.S.C. 112, second paragraph for using acronyms such as "LIB". By this amendment, all references in the claims to "LIB" are changed to "laser induced breakdown". Support for this amendment can be found throughout the specification and claims as filed, and in particular at Column 5, line 6.

Based on the above, applicants request this rejection be reconsidered and withdrawn.

REJECTION UNDER 35 U.S.C. § 102(b)

It is well settled that to anticipate a claim, the reference must teach every element of the claim, see M.P.E.P. §2131. Moreover, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he elements must be arranged as required by the claim," see M.P.E.P. § 2131, citing *In re Bond*, 15 US.P.Q.2d 1566 (Fed. Cir. 1990). Furthermore, in order for a prior art reference to be anticipatory under 35 U.S.C. § 102 with respect to a claim, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim," see M.P.E.P. § 2131, citing Richardson v. Suzuki Motor Co., 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989). Applicants respectfully assert that the rejection does not satisfy these requirements.

Claims 46, 48, 49, 50, 51, 51/46, 51/48, 51/49, 51/50, 57/46, 57/48, 57/49, 57/50, 58/46, 58/48, 58/49, 58/50, 59/56/46, 59/56/47, 59/56/48, 59/56/50, and 6 (sic) - 63 are rejected under 35 U.S.C. 102(b) as being anticipated by Ihlemann et al.

In response Applicants have amended claims 46, 48, 49, and 50 to include the limitation of having pulses "characterized by a pulse width with a relationship of fluence breakdown threshold versus laser pulse width having a distinct change in slope". Basis for this limitation exists in the specification at least at column 1, lines 50-56. No new matter has been entered.

Claims 46 - 50, as amended, at least define pulses "characterized by a pulse width with a relationship of fluence breakdown threshold versus laser pulse width having a distinct change in slope".

Ihlemann does not disclose these limitations. Ihlemann discloses a short pulse laser system (500 femtoseconds) but does not teach the claimed method of laser induced breakdown. More particularly, the claims call for pulses characterized by a specific relationship of pulse width and fluence breakdown. The claimed relationship has a distinct change in slope. Ihlemann does not teach this element of the claims.

Claims 51, 51/46, 51/48, 51/49, 51/50, 57/46, 57/48, 57/49, 57/50, 58/46, 58/48, 58/49, 58/50, 59/56/46, 59/56/47, 59/56/48, 59/56/50, and 6 (sic) -63 depend from the indicated base claim, and thus inherit all limitations of the base claim. Each of these claims sets forth features and limitations not taught by Ihlemann. Thus, the Applicants respectfully assert that for the above reasons, these claims are patentable over the 35 U.S.C. § 102 rejection of record.

Claim 47 was rejected under 35 U.S.C. 102(b) as being anticipated by Maillot et al.

In response Applicants have amended claim 47 to include the limitation of having pulses "characterized by a pulse width with a relationship of fluence breakdown

threshold versus laser pulse width having distinct change in slope". Basis for this limitation exists in the specification at least at column 1, lines 50-56. No new matter has been entered.

Claim 47, as amended, at least defines pulses "characterized by a pulse width with a relationship of fluence breakdown threshold versus laser pulse width having a distinct change in slope".

Maillot does not disclose these limitations. Maillot discloses a pulsed laser beam with a wavelength larger than the area whose "properties" are change by the beam. Claim 47 calls for pulses characterized by a specific relationship of pulse width and fluence breakdown. The claimed relationship has a distinct change in slope. Maillot does not teach this element of the claims. Thus, the Applicants respectfully assert that for the above reasons, these claims are patentable over the 35 U.S.C. § 102 rejection of record.

Claims 46, 48, 49, 51, 51/46, 51/48, 51/49, 51/50, 52/46, 52/48, 52/49, 52/50, 55/46, 55/48, 55/49, 55/50, 57/46, 57/48, 57/49, 57/50, 58/57/46, 58/57/48, 58/57/49, 58/57/50, 62/55/46, 62/55/48, 62/55/49, 62/55/50, 63/46, 63/48, 63/49, 63/50, 65/49, 65/50, 66/46, 66/48, 66/49, 66/50, 69/46, 69/48, 69/49, 69/50, 70/46, 70,48, 70/49, 70/50, 71/46, 71/48, 71/49, 71/50, 72/46, 72/48, 72/49, 72/50, 73/46, 73/48, 73/49, 73/50 and 78 were rejected under 35 U.S.C. § 102(a) as being anticipated by Kautek et al. in the article "Femtosecond pulse laser ablation of metallic, semiconducting, ceramic and biological materials". It was stated in the office action that Kautek has a publication date of April 5, 1994, three days before the filing date of the original application, April 8, 1994.

Applicants submit attached hereto, a copy of the web page entry from the sponsoring organization of the aforesaid conference indicating that the proceedings of such conference were published September 1994. Therefore, it is respectfully submitted that the publication in September 1994 of proceedings which occurred in Europe in April 1994, constitutes a publication only as of the publication date in September. It is well established that circulation or permanency is required if a work is to constitute a printed publication. A paper which is orally presented but where written copies are not disseminated, does not constitute either circulation or permanency. See Massachusetts Institute of Technology v A.B. Fortia, 774 F.2d 1104, 227 U.S.P.Q. 428 (Fed. Cir. 1985).

Nevertheless, in order to facilitate prosecution and issuance of allowable subject matter, applicants herewith submit a declaration under 37 C.F.R. 1.131 demonstrating conception of the invention prior to the earliest possible effective date of the Kautek reference coupled with diligence to the filing date of April 8, 1994. The attached declaration Exhibit 1, parts A, B, and C showing conception of the invention prior to March 31, 1994 and including conception of the determination of damage thresholds for corneal tissue over a range of pulse durations from 150 femtoseconds to 7 nanoseconds and more specifically showing breakdown threshold for ultrashort pulses of less than 10 picoseconds, where the breakdown threshold for ultrashort pulses less than 10 picoseconds are less than the longer pulses and have smaller standard deviations resulting in reduced collateral damage.

Kautek is said to disclose using pulses of 300 femtoseconds for laser ablation of biologic materials in disclosing a pulse width shorter than 10 picoseconds.

As shown in Exhibit 1, for such biologic materials, applicants already had possession of at least as much as is allegedly shown by Kautek, before the earliest possible effective date of Kautek. Therefore, it is respectfully submitted that Kautek does not qualify as a reference due to its publication date being several months after the filing date of the present invention and further because the invention claimed herein was conceived before the earliest possible effective date of Kautek and such conception was coupled with diligence to the subsequent filing of the application (constructive reduction to practice).

REJECTIONS UNDER 35 U.S.C. § 103(a)

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art cited must teach or suggest all the claim limitations. See M.P.E.P. §2143. Without conceding the first and second criteria, Applicants assert that the rejection does not satisfy the third criteria.

Claims 47, 51/47, 52/47, 55/47, 56, 59, 60, 61, 58/47, 62/55/47, 63/47, 65/47, 66/47, 69/47, 70/47, 71/47, 72/47, and 73/47 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ihlemann in view of Lai ('916).

In response Applicants have amended claims 46 - 50 to include the limitation of having pulses "characterized by a pulse width with a relationship of fluence breakdown threshold versus laser pulse width having a distinct change in slope". Basis

for this limitation exists in the specification at least at column 1, lines 50-56. No new matter has been entered.

The Office Action admits that Ihlemann does not teach all aspect of the invention as claimed. The Office Action attempts to cure this deficiency by relying on Lai. However, this combination, as presented, does not teach or suggest all limitations of the claimed invention.

Claim 47, as amended, at least defines pulses "characterized by a pulse width with a relationship of fluence breakdown threshold versus laser pulse width having a distinct change in slope".

Neither Ihlemann nor Lai discloses these limitations. Both Ihlemann and Lai teach short pulse laser systems. However, neither reference discloses the claimed laser induced breakdown. The claims call for pulses characterized by a specific relationship of pulse width to fluence breakdown threshold. The relationship has a distinct change in slope. Neither Ihlemann nor Lai teach such pulses. Therefore, the combination of references does not teach all elements of the claimed invention. Thus, the Applicants respectfully assert that for the above reasons claim 47 is patentable over the 35 U.S.C. § 103(a) rejection of record.

The claims dependent from claim 47 inherit all limitations of independent claim 47. Each dependent claim sets forth features and limitations not recited by the combination of Ihlemann and Lai. Thus, the Applicants respectfully assert that for the above reasons the claims dependent on claim 47 are patentable over the 35 U.S.C. § 103(a) rejection of record.

The claims dependent from claims 46 and 48-50 inherit all limitations of independent claims 46 and 48-50. Claims 46 and 48-50, as amended, at least define pulses "characterized by a pulse width with a relationship of fluence breakdown threshold versus laser pulse width having a distinct change in slope". As stated above, neither Ihlemann nor Lai discloses these limitations. Each dependent claim sets forth features and limitations not recited by the combination of Ihlemann and Lai. Thus, the Applicants respectfully assert that for the above reasons the claims dependent on claims 46 and 48-50 are patentable over the 35 U.S.C. § 103(a) rejection of record.

Claims 47, 51/47, 52/47, 55/47, 56, 59, 60, 61, 57/47, 58/57/47, 62/55/47, 63/47, 65/47, 66/47, 69/47, 70/47, 71/47, 72/47, 72/47, and 73/47 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kautek in view of Lai ('916).

As set forth above, Kautek does not qualify as a prior art reference. As such, the combination of Kautek and Lai cannot render the claimed invention unpatentable.

Claims 64/46, 64/48, 64/49, and 64/50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ihlemann in view of Mourou ('606).

Claims 64/46, 64/48, 64/49, and 64/50 depend from claims 46 and 48-50, and inherit all limitations of independent claims 46 and 48-50. Claims 46 and 48-50, as amended, at least define pulses "characterized by a pulse width with a relationship of fluence breakdown threshold versus laser pulse width having a distinct change in slope". Neither Ihlemann nor Mourou discloses these limitations. More particularly, the claims call for pulses characterized by a specific relationship of pulse width to fluence breakdown threshold. The relationship has a distinct change in slope. Neither

Ihlemann nor Mourou teach such pulses. Therefore, the combination of references does not teach all elements of the claimed invention. Thus, the Applicants respectfully assert that for the above reasons claims 64/46, 64/48, 64/49, and 64/50 are patentable over the 35 U.S.C. § 103(a) rejection of record.

Claim 64/47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ihlemann in view of Lai as applied to claim 47 above, and further in view of Mourou ('606).

Claim 64/47 depends from claim 47, and inherits all limitations of independent claim 47. Claim 47, as amended, at least define pulses "characterized by a pulse width with a relationship of fluence breakdown threshold versus laser pulse width having a distinct change in slope". As stated above, neither Ihlemann nor Lai discloses these limitations. Mourou is not relied upon to teach this element. As such, claim 64/47 sets forth features and limitations not recited by the combination of Ihlemann, Lai and Mourou. Thus, the Applicants respectfully assert that for the above reasons claim 64/47 is patentable over the 35 U.S.C. § 103(a) rejection of record.

Claims 53/46, 53/48, 53/49, 53/50, 54/53/46, 54/53/48, 54/53/49, 54/53/50, 68/46, 68/48, 68/49, 68/50, 79 and 80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kautek in view of Wojnarowski et al. ('480). As stated above, Kautek fails to qualify as a proper prior art reference. As such, the combination of Kautek and Wojnarowski cannot render the claimed invention unpatentable.

Claims 53/47, 54/53/47, and 68/41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kautek in view of Lai as applied to claim 47 above, and further in view of Wojnarowski et al. ('480). As stated above, Kautek fails to qualify as a proper

prior art reference. As such, the combination of Kautek. Lai and Wojnarowski cannot render the claimed invention unpatentable.

REJECTION BASED ON ALLEGED RECAPTURE

Claims 46-80 were rejected under 35 U.S.C. § 251 as being an improper recapture on the basis that in the prosecution of the parent, 5,656,186 (USSN 08/224,961), in reply to the rejection of August 10, 1995, the amendment of December 4, 1995 argued that Miyauchi does not employ pulse widths that are less than the characteristic pulse width and speculates that since the preamble of aforesaid claim 1 in the parent case recited "the material being characterized by a relationship of fluence breakdown threshold versus laser pulse width having a rapid and distinct change in slope" that to not have such limitation as to rapid and distinct would be an improper recapture of subject matter previously surrendered during prosecution.

It should be noted that a similar rejection was made in the reissue application, and such rejection was withdrawn. Such withdrawal was at least on the basis that original claim 36 described the change in slope as being merely distinct.

It is respectfully submitted that examiner has taken a single isolated statement from the remarks submitted in December of 1995 to attempt to provide a foundation for limiting the characterization of the slope to be rapid and distinct. However, a full and complete reading of the response submitted in December 1995 demonstrates that the important characteristic being identified was the break point in the slope of the laser induced breakdown threshold. The relevant portions of the remarks of

December 1995 in parent USSN 09/224,961 are included herewith, taken from pages 9-11 thereof.

Although not expressly so stated, the rejection on the basis of Miyauchi may be based on alleged inherency. A review of Miyauchi does not reveal a teaching of the key feature of the present invention whereby "a relationship of fluence breakdown threshold versus laser pulse width exhibits a rapid and distinct change in slope at a predetermined or characteristic pulse width". It is axiomatic that, in order to "anticipate" a claim, "all the elements in the claim (or possibly their equivalents . . .) must have been disclosed in a single prior art reference or device." Radio Steel & Mft. Co. v. MTD Products, Inc., 731 F.2d 840, 845, 221 USPQ 657, 661 (Fed. Cir. 1984). Moreover, "it is incumbent upon the Examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference." Ex parte Levy, 17 USPQ2d 1461, 1462 (BPAI 1990). It appears that the rejection may be based upon the assumption that the material involved in Miyauchi inherently exhibits such a characteristic and that the pulse width employed in Miyauchi are inherently less than this pulse width.

First, there is no teaching in Miyauchi of the characteristic in question, therefore, there is nothing "predetermined" or "characteristic" about the critical pulse width. Second, the pulse widths employed in Miyauchi are not in fact less than the critical pulse width. Miyauchi proposes to employ pulse widths in the range of 100-300 picoseconds for

lasing metal (Al) (Column 2 at line 58), Miyauchi's pulse widths are considerably greater than the pulse widths required by the method of the present application for metal (Au) about 10 picoseconds or less. (See arrow, Figure 3 of the application). Third Miyauchi states that the peak power required for cutting is inversely proportional to the square root of pulse width. (See Miyauchi at Column 2 at line 30.) Accordingly, Miyauchi shows that the threshold for damage is proportional to the square root of pulse width. This is exactly what the present application demonstrates is not the case.

The present application demonstrates that in a particular operating range, approximately 10 picoseconds or less, there is a breakpoint in the slope of the laser induced breakdown threshold. By the method of the present invention, ablation is accomplished in the range of pulse width less than the breakpoint. In contrast, Miyauchi et al. did not have an understanding of breakdown in this important, critical range. In short, the pulse widths disclosed in Miyauchi are greater than those described by the present application at the change of slope point. For material of the type described in Miyauchi, the slope change occurs at less than 10 picoseconds whereas Miyauchi operates in the range of 100-300 picoseconds, completely missing the important feature of the invention. Miyauchi adheres to the old thinking that the scaling law should be followed through the operating range. Therefore, based on Miyauchi one would not be able to project that an optimal range pulse width is

identifiable as in the present invention. Therefore, the old thinking exemplified by Miyauchi et al. is surprisingly disproved by the present invention.

In summary, Miyauchi does not employ pulse widths that are inherently less than the "predetermined pulse width" as defined in the preamble of claim 1 as filed. Miyauchi does not employ pulse widths that are inherently less than the "characteristic pulse width" as defined in claim 1 as now amended. In that regard, it appears that the Office Action analysis overlooks the preamble which gives meaning to the claim and is essential to a key feature of the invention. Such a preamble cannot be overlooked, especially when step 9a) of claim 1 as filed referred to "said predetermined pulse width"; and claim 1 as amended refers to "said characteristic pulse width". In determining anticipation, functional language, preambles, and language in "whereby," "thereby," and "adapted to" clauses cannot be disregarded. (See Porter v. Farmers Supply Service, Inc., 790 F.2d 882, 229 U.S.P.Q. 814, 816 (Fed. Cir. 1986); and Pac-Tec, Inc. v. Amerace Corp., 903 F/2d 796, 14 U.S.P.Q.2d 1871 (Fed. Cir. 1990). Therefore, Miyauchi cannot anticipated the invention of claims 1 through 5, 8 through 17, and 39. New claim 40 is not anticipated by Miyauchi for the same reasons.

In response to the earlier rejection based on Miyauchi, Applicant's argued that there is no teaching of Miyauchi of the characteristic in question since, Miyauchi's pulse widths are considerably greater than the pulse widths required by the method of

the present invention. In the present application, in a particular operating range, there is a break point in the slope of the laser induced breakdown threshold. By the method of the present invention, ablation is accomplished in the range of pulse width less than the break point. In contrast, Miyauchi did not have an understanding of the break point. Further, pulse widths disclosed in Miyauchi are greater than those described in the present application at the change of slope point. There is further discussion in the aforesaid response concerning the important feature of the invention being the change in slope point and operating in a range at or below such change in slope point. Further, Miyauchi teaches that the threshold for damage is proportional to the square root of pulse width which is exactly what the present invention demonstrates is not the case.

Therefore, applicants' characterization of the characteristic pulse width rests on the break point in the slope of the curve or a change in the slope of the curve resulting in effectively mitigating thermal affects. Such is further admitted in the later reasons for allowance, which is broader than any of the terms rapid, distinct, and "rapid and distinct". Such reasons for allowance are directed to laser induced breakdown of a material characteristic by a relationship of fluence breakdown threshold using laser pulse width that exhibits a change in slope "at a predetermined laser pulse width so that ablation is by laser pulses having a width equal to or less than the predetermined pulse width laser, uses a lower pulse energy than that of the prior art in the femtosecond range to ablate without thermal affects to enable more precise machining of the substrate." (Reasons for Allowance in USSN 08/224,961 dated January 21, 1997 at pages 2-3.)

In summary, although the change in slope may be more or less abrupt or rapid, such change in slope is determinable and distinguishable and accordingly, claims as filed included claims of varying scope such as in claim 36 as filed which states that the relationship of fluence breakdown threshold versus laser pulse width exhibits a distinct change in slope at a characteristic laser pulse width. This point is further emphasized in the response amendment filed November 1996. Excerpts of which are given below, taken from pages 16-17.

> In summary, the present invention contradicts Miyauchi and conventional thinking by new data. This new data demonstrates that for a metal, such as Al and Au, LIB mechanism as defined in the items above, and in the present invention, occurs at a laser pulse well outside Miyauchi's 100 to 300 picoseconds. Miyauchi never suggested the femtosecond range of the present invention necessary to achieve LIB mechanism; and Miyauchi never identified the present invention's "change of slope" characterization. (See Declaration at item 15.)
>
> The present invention relies upon the production of a spontaneous plasma formed by LIB to effect the ablation, and recognizes that thermal effects are virtually eliminated from the process when operating near the threshold. Therefore, the present invention deviates completely from Miyauchi's $1/t^{1/2}$ behavior. The novel plasma process occurs when one operates below the critical point defined by the present invention's "distinct change of slope" in the damage fluence versus pulse width threshold curve. The present invention, for the first time, specifically teaches that

one should avoid doing what Miyauchi et al teach. That is to say, the present invention avoids thermal based ($1/t^{1/2}$) behavior entirely. In contrast, Miyauchi relies on such thermal ablation process. (See Miyauchi at Col. 2 at lines 30-45.) (See Declaration at item 16.)

As can be seen from the foregoing, the arguments of record distinguish Miyauchi on the basis that Miyauchi teaches utilization of the $1/t^{1/2}$ conventional scaling law feature for ablating material. In contrast, the present invention teaches departure from conventional behavior and operating in the point where such departure occurs. The important feature is the discernable change in slope at the point of departure. Such change in slope is identifiable. Whether such change in slope is relatively abrupt and rapid or not, is not the point.

According to the case law cited by the examiner and applying such case law to the present situation, it can be seen that the term rapid, the term distinct, and the phrase rapid and distinct, were not stated to be limitations necessary to overcome the prior art. To the contrary, the change in slope is what was argued as being distinguishable from the prior art. Therefore, it cannot be said that there was any surrender based on the term rapid, the term distinct, or the phrase rapid and distinct.

As can be seen in the present situation, reissue claims pending here are not broader than the original claims in a manner directly pertinent to a prior art rejection. In fact, claim 36 issued in the parent reissue application with only the term distinct rather than the phrase "rapid and distinct". The present claims are no broader than issued claim 36. Also, arguments were made during the prosecution of the reissue application that relied solely on the distinct change in slope, rather than any "rapid and distinct"

change in slope. Subject matter relied upon in this manner cannot be said to have been surrendered.

It bears repeating that the inventive concept here is the relationship of fluence breakdown threshold versus laser pulse width that departs from the scaling law and such departure is determinable as a change in slope. The relative steepness or shallowness of such change in slope is not critical. Accordingly, applicants submit that the examiner has taken the isolated phrase "rapid and distinct" out of the broader context of both the prosecution history of this file and the reasons for allowance; and thus, the rejection is improper.

ALLOWABLE SUBJECT MATTER

Applicants thank the examiner for the indication of allowability regarding claims 67-77. A continuing indication of the allowability of these claims is respectfully requested.

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Applicants submit herewith a Supplemental Information Disclosure Statement (IDS) identifying three printed publications. Applicants cite one of these publications, Kautek *et al.* entitled "Femtosecond-pulse Laser Ablation Of Human Corneas", out of an abundance of caution even though they do not believe that it, in fact, constitutes prior art. Kautek *et al.* was submitted and accepted for publication before the filing date of the present application (June 25, 1993 and September 28,

1993, respectively) but was not published until May 1994, which is after the filing date of the present application in April 1994.

Under the controlling law, a technical paper is considered a "printed publication" when it has been made available to the extent that skilled practitioners in the subject art can locate it and comprehend therefrom the essentials of the claimed invention. *See*, Manual of Patent Examining Procedures, § 2128; *Massachusetts Institute of Technology v. AB Fortina*, 227 USPQ 428, 432 (Fed. Cir. 1985) citing *In re Wyer,* 210 USPQ 790, 794 (C.C.P.A. 1981). In the present instance, Kautek *et al.* would be considered a "printed publication" as of its publication date – May, 1994. *See, In re Bayer,* 196 USPQ 670, 673 (C.C.P.A. 1974); *National Semiconductor Corp. v. Linear Technology Corp.,* 8 USPQ2D 1359, 1362 (N.D. Cal. 1988) (papers submitted to a technical subcommittee to be evaluated for possible publication is not considered prior art as a printed publication); *Xerox Corp. v. 2Com Corp.,* 49 USPQ2d 1772, 1775-776 (W.D.N.Y. 1998) (submission of a paper for review by a scientific committee prior to publication does not constitute prior art as a "printed publication").

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: November 15 2002

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